



SUNSET REVIEW REPORT

Presented to the
Joint Legislative Sunset Review Committee
of the California State Legislature by the

COMMITTEE ON DENTAL AUXILIARIES
of the Dental Board of California

September 1, 2002

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COMMITTEE ON DENTAL AUXILIARIES

2002 Sunset Review Report

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Committee on Dental Auxiliaries

Of the Dental Board of California

Part 1. Background

Authority

In creating the Committee on Dental Auxiliaries (COMDA) in 1974, the Legislature intended to permit the full utilization of dental auxiliaries in order to meet the dental care needs of all the state's citizens (Section 1740, Business and Professions Code).

Full utilization of auxiliaries is generally considered to be the concept of assuring that all possible duties are delegated to auxiliaries, consistent with the protection of the public health and safety, so that services are accessible to as many people as possible.

COMDA is a statutory committee within the Dental Board of California and, since its inception, performed all of the auxiliary examination, qualification, and licensing functions for the Dental Board of California via an administrative agreement between the two entities.

Following the 1996 Sunset Review of COMDA, the Joint Legislative Sunset Review Committee (JLSRC) sponsored successful legislation that granted COMDA statutory authority to perform these duties. Legislation also eliminated the Dental Board's statutory Auxiliary Committee so that COMDA would report directly to the Board.

Separate legislation enacted at the same time gave COMDA the authority to evaluate all suggestions for regulatory changes regarding dental auxiliaries, hold informational hearings, and request the reasons in writing if the Dental Board rejects or significantly modifies any of its recommendations.

Composition

COMDA is comprised of nine members appointed by the Governor. Legislation was enacted in 1998 which changed one of the required Dental Board members to a public member of the Dental Board, and made it discretionary rather than a requirement that one member be an RDAEF or RDHEF.

Budget and Staff

COMDA has an authorized staff of 8.5 positions, which has not increased for nearly 20 years, and a FY 2001/02 budget of about \$1,692,000. All funds are derived solely

from auxiliary application, examination, and renewal fees, which are deposited into the State Dental Auxiliary Fund, a special fund separate from the State Dentistry Fund.

Mission

In fulfilling its mission of protecting the health, safety, and welfare of consumers, and promoting the full utilization of auxiliaries to meet the dental care needs of all of California's citizens, COMDA's Strategic Plan contains the following goals:

- < Support the imposition of the least restrictive form of regulation necessary without compromising public health, safety, or welfare;
- < Administer accessible, fair, and valid examination and licensing processes;
- < Assist the Dental Board in its consumer protection and enforcement efforts;
- < Foster the accessibility of dental health care by supporting scopes or practice and supervision levels which allow the most effective utilization of dental auxiliaries;
- < Foster the accessibility of dental health care by supporting and advocating the existence of a viable career ladder which allows the most effective utilization of dental auxiliaries;
- < Support efforts to educate consumers in order to improve their dental health;
- < Develop and maintain the most flexible, responsive, and cost-effective organizational structure possible

Programs

There are currently over 45,000 licensed auxiliaries. COMDA examines and licenses five categories:

! Registered Dental Assistants (RDAs)

Applicants for RDA licensure must have (1) graduated from a Board-approved RDA educational program of a minimum of 720 hours (approximately 8 months); or, (2) completed at least 12 months of satisfactory paid work experience as a dental assistant with a licensed dentist(s) in the United States; or (3) completed a

Department of Education approved 4-month educational program coupled with 8 months of work experience.

Legislative changes in the last few years now allow applicants to use experience gained outside of California to meet the work experience requirement, and reduced the work experience requirement from 18 months to 12 months.

Applicants must successfully complete both a computerized written examination and practical examination during which they perform certain procedures on a typodont.

There are approximately 30,500 RDAs with current and active licenses. Regulation changes in recent years now allow RDAs to bleach teeth and fabricate temporary crowns intra-orally.

! Registered Dental Assistants in Extended Functions (RDAEFs)
! Registered Dental Hygienists in Extended Functions (RDHEFs)

A licensed RDA with coronal polishing certification, or an RDH with expanded function certifications (administration of local anesthetic, soft tissue curettage, and nitrous oxide/oxygen analgesic sedation), may apply for licensure as an RDAEF or RDHEF after completing a specific Board-approved course affiliated with a dental school, which must be a minimum of 90 hours in length.

Qualified applicants must then successfully complete a COMDA-administered clinical examination of certain procedures on a patient.

There are approximately 765 RDAEFs and 18 RDHEFs with current and active licenses. Regulation changes in recent years now allow EF's to remove excess cement from subgingival tooth surfaces with a hand instrument, and apply etchant for bonding restorative materials.

! Registered Dental Hygienists (RDHs)

RDH licensure applicants must have graduated from a Board-approved dental hygiene educational program accredited by the Joint Commission on Dental Accreditation (a minimum of a 2-year college program) and completed expanded functions courses (administration of local anesthetic, soft tissue curettage, and nitrous oxide/oxygen analgesic sedation) if such expanded functions were not included in the program's course of instruction. Applicants must also have passed the National Board written examination for dental hygienists.

Qualified applicants must then successfully complete a COMDA-administered clinical examination during which they examine a patient, and perform root planing and scaling of one or two quadrants of the mouth.

There are approximately 14,600 RDHs with current and active licenses. Regulation changes in recent years now allow RDHs to apply liquid antimicrobials subgingivally under the general supervision of a dentist. A more recent change allows RDHs to apply antibiotic and antimicrobial medicaments subgingivally that do not later have to

be removed, under the direct supervision of a dentist, which requires that the dentist be present in the treatment facility.

! Registered Dental Hygienists in Alternative Practice (RDHAPs)

AB560 was enacted in 1998, which established a new Registered Dental Hygienist in Alternative Practice (RDHAP) category of licensure, which allows certain persons to practice dental hygiene by prescription from a dentist or a physician and surgeon in certain settings, rather than under the supervision of a licensed dentist.

Applicants for RDHAP licensure are required to hold a current RDH license, have been engaged in clinical practice as a dental hygienist for a minimum of 2,000 hours during the immediately preceding 36 months, possess a bachelor's degree or its equivalent, complete 150 hours of approved coursework, and pass a written examination prescribed by the Dental Board.

No educational programs sought approval of the Dental Board to offer the coursework until August, 2002, so the only persons who are presently licensed to practice are those who completed the employment phase of a prior Health Manpower Pilot Project and established an independent practice by June 30, 1997, whom the law "grandfathered". A total of 21 licenses have been issued to those who met the requirements.

One program is now approved to offer the coursework, and it is expected to begin accepting students early in 2003.

• Other Certifications

COMDA also maintains records of certification of persons who have taken approved courses and are, therefore, allowed to perform the following additional duties:

- **Exposure of x-rays on patients**
- **Coronal polishing**
- **Ultrasonic scaling**
- **Administration of local anesthetics**
- **Soft tissue curettage**
- **Administration of nitrous oxide and oxygen analgesic sedation**

In addition, COMDA reviews sites, curriculum, and other qualifications of those seeking approval of the Dental Board to offer Registered Dental Assistant educational programs, radiation safety programs, coronal polishing courses, and ultrasonic scaling courses.

Committee on Dental Auxiliaries Of the Dental Board of California

Part 2. Issues

Prior Issues – 2000 Sunset Review

Following are the more significant portions of the JLSRC's Final Recommendations issued as a result of the 2000 Sunset Review process, followed by pertinent comments:

Recommendation #1: *The Joint Committee and the Department recommend the continued regulation of dental auxiliaries. ...Dental care at all levels affects the health and safety of Californians and requires a high level of skill.*

This conclusion was also reached by the JLSRC following Sunset Review in 1996.

Recommendation #2: *The Joint Committee recommends that the status of the COMDA as a statutorily-created committee of the Dental Board should not be changed given the proposed actions to change the Dental Board structure and regulatory authority over dental auxiliary practice.*

If changes are not made to improve the Dental Board's representation of the public's interests and those of dental auxiliaries, then consideration should be given to making the COMDA into an independent licensing agency for dental auxiliaries.

Legislation following the 2000 Sunset Review process, effective January 1, 2002, sunsetted and reconstituted the Dental Board, but did not change the number of dental auxiliary or public members, the Board's authority over dental auxiliary practice, or the authority or duties of COMDA.

Recommendation #3: *The Joint Committee and the Department recommend that a more structured framework be applied in defining the scope of practice for dental auxiliaries and that the scope of practice be based on a general range of duties.*

See "New Issues Identified by the JLSRC" in the next section of this report.

Recommendation #4: *The Board and the COMDA believe that all RDAs and new RDA applicants should be required to complete approved courses in radiation safety and coronal polishing to ensure consumer protection. The Joint Committee and the Department agree*

with the COMDA that the health, safety, and welfare of the public may be at risk by allowing RDAs to perform these functions without appropriate instruction and certification.

Legislation was enacted effective January 1, 2002, which accomplished the above.

Recommendation #6: *The Joint Committee recommends that the on-the-job training experience requirement for becoming a registered dental assistant (RDA) should be reduced as proposed by the COMDA from 18 months to 12 months – via any necessary amendment to the current statutory limits.*

Legislation was enacted effective January 1, 2002, which accomplished the above.

New Issues Identified by the JLSRC

1. Auxiliary Scopes of Practice

As a result of the Sunset Review of COMDA and the Dental Board in 2000, Senator Figueroa introduced successful legislation mandating that the Department of Consumer Affairs, in conjunction with the Dental Board and the JLSRC, review the scopes of practice of dental auxiliaries, and that the Department report to the Legislature by September 1, 2002. The Department hired a consultant to conduct the review, and their final report was submitted to the Department August 1, 2002.

COMDA has devoted considerable effort to this issue since 1999, when the Dental Board requested that COMDA begin a review of the regulations that define the duties that RDA's can perform, to assist it in meeting the mandate of Business and Professions Code Section 1754 that it review such duties every 7 years.

In August of 1999, COMDA began that review, as well as a review of the regulations defining the duties of DA's and EF's, and the appropriateness of the entire regulatory scheme. It decided to appoint a Task Force of 14 members from all aspects of dentistry, which met for the first time in December, 1999.

The Task Force held nearly all-day meetings throughout the State in March, May, August, and November of 2000, and in May 2001, at which time it voted to disband and made no final recommendations.

Several members of the Task Force testified as individuals or as representative of professional organizations at the December 2000, JLSRC sunset hearings about the controversies that had arisen during their meetings. Their testimony underscored the fact that devising a regulatory scheme on which all factions can agree was not a simple task.

Although the Task Force disbanded without making any final recommendations, COMDA continued its review by evaluating the reports and Preliminary

Recommendations of the Task Force, and broadly soliciting input from the public, at COMDA meetings in August and November, 2001, and in March, 2002.

At COMDA's March, 2002 meeting, it decided to defer any further review until the independent consultant issued its report on auxiliary scopes of practice, as mandated by SB26.

At its August 8th meeting, COMDA reviewed the preliminary report of the consultant that was issued in July, 2002, and agreed with the vast majority of the consultants conclusions and recommendations. In fact, many of the conclusions and recommendations reached by the consultant had been previously preliminarily adopted by COMDA in November, 2001, after its two years of intense analysis.

COMDA intends to hold a special meeting in October to consider the final draft of the consultant's report, and will provide a Supplemental Sunset Report to the JLSRC thereafter detailing COMDA's specific recommendations with regard to the report.

New Issues Identified by COMDA

1. Statutory Fee Maximums

Section 1725 of the Business and Professions Code sets the statutory maximum for all fees that can be assessed against dental auxiliaries for examination and licensing, which has not been amended in over ten years.

An analysis of the actual costs of administering the various dental auxiliary programs shows that the:

(1) costs of administering the written examination for Registered Dental Assistants actually exceed the current statutory maximum, and have been partially supported by the renewal fee;

(2) cost of administering the practical examination for Registered Dental Assistants has nearly reached the statutory cap;

(3) statutory cap for the application fee will not be sufficient to cover the projected costs of processing RDH licensure by credential applications, assuming AB2818 (Aanestad) is passed and becomes effective January 1, 2003.

In order to assure that COMDA can adjust its fees to reflect actual program costs as they change in the future, COMDA recommends that Section 1725 (b) be amended to raise the statutory cap for the written exam from \$50 to \$100, for the practical exam from \$60 to \$100, and for the application fee from \$20 to \$100.

Following are the fees that have been set, which are relatively low and have essentially been stable for many years.

Fee Schedule			
TYPE OF FEE	<i>CURRENT FEE</i>	<i>STATUTORY MAXIMUM</i>	<i>PROPOSED MAXIMUM</i>
Application	20	20	100
Examination - RDA Written	50	50	100
Examination - RDA Practical	55	60	100
Examination - EF Clinical	200	250	250
Examination - RDH Clinical	155	220	220
Biennial Renewal	35	80	80
Duplicate License	25	25	25

2. Collection of Fees by Private Vendors

It is increasingly common for licensing agencies to consider contracting with vendors to provide exam services, and for those vendors to collect the applicable fee for that service.

The primary benefit of this type of relationship is to assure that examination programs are not faced with interruption in mid-year because an agency under-forecast the number of examinees it anticipated when projecting, a year or more in the future, the amount that needed to be budgeted to pay an examination vendor via contract.

Obviously, ceasing an examination function has a serious adverse impact on applicants, who would be prevented from becoming qualified and entering the workforce in a timely manner.

The statutes governing COMDA's collection of monies is unclear with regard to the authority to allow a vendor to collection an examination fee, which COMDA recommends be legislatively clarified by amending Sections 1721.5 and 1725 of the Business and Professions Code.

3. Required Courses for EF's and RDH's

Following the last Sunset Review process, the JLSRC successfully pursued legislation requiring existing RDAs to take courses in radiation safety and coronal polishing by January 1, 2005, if they have not already successfully completed such courses, and requiring new applicants to complete such courses prior to licensure.

COMDA had recommended this change in its 2000 Sunset Review report because there was considerable confusion in the dental community as to allowable duties,

which reportedly results in significant unlawful activity. Requiring RDAs to take such courses improves consumer protection with regard to the performance of potentially hazardous duties by untrained, unlicensed auxiliaries.

In the same vein, Registered Dental Assistants in Extended Functions (RDAEFs) are required to obtain competency in coronal polishing, but have not been required to complete courses in radiation safety. It is unknown how many RDAEF's may lack such certification since databases for licenses and radiation safety are not integrated, but it would be minimal considering that the entire licensee population is less than 800.

Also, Registered Dental Hygienists (RDHs) who have graduated from accredited programs in California since 1985 have completed a board-approved program in radiation safety as part of their educational program and are automatically certified to expose radiographs.

However, this was not true for those who graduated prior to 1985, or for all those who graduated from accredited programs outside of California. Those licensees, if they wished to expose radiographs, could have taken the Board's radiation safety exam prior to 1985, taken a board-approved course since 1985, or applied for approval of the education they received outside of California. Again, the number of persons who lack such certification are unknown because of differing databases.

In addition, Registered Dental Hygienists (RDHs) have only been required to successfully complete expanded courses in periodontal soft tissue curettage, nitrous oxide/oxygen analgesic sedation, and the administration of local anesthetics since 1984.

COMDA believes that legislative change is necessary to assure that all licensees within a particular license category conform to the same requirements in order to eliminate confusion in the profession, and the potential for the unlawful practice of certain duties and the threat to public protection that such activity poses.

This would require amendments to Sections 1756 and 1758 of the Business and Professions Code.